

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 134, "Underground Storage Tank Licensing and Certification Programs," Iowa Administrative Code.

The proposed amendments rescind rules 567—134.18(455B) to 567—134.28(455B) and adopt new rules 567—134.18(455B) to 567—134.29(455B) in Part C of 567—Chapter 134. In addition, the proposed amendments revise the title of Part C and amend definitions and add new definitions to rule 567—134.17(455B).

Pursuant to 2007 Iowa Acts, Senate File 499, section 10, the Environmental Protection Commission (Commission) adopted by emergency rule making in **ARC 6073B** [IAB 8/1/07] the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (Board) rules in 591—Chapter 15. The rules in 591—Chapter 15 were rescinded by the Board in **ARC 6165B**, effective August 15, 2007. The rules pertain to the licensing of underground storage tank (UST) installers, installation inspectors, testers, and liners. Pursuant to 2007 Iowa Acts, Senate File 499, the Board's licensing authority was transferred to the Commission, and the emergency rule making effectuated that transition.

No substantive changes were made to the rules during the emergency rule making. However, 2007 Iowa Acts, Senate File 499, section 6, authorizes the Commission to expand the UST professional licensing scheme to include adding a licensing program for individuals providing services for permanent closure of UST systems (removers). Therefore, the Commission proposes to amend the rules accordingly. The amendments:

- Add a licensing scheme for UST removers and require that soil and groundwater sampling at the time of UST closure be performed by a certified groundwater professional.
- Raise the required insurance liability coverage for UST professionals from \$250,000 to \$1 million. This coverage amount was required by legislation in 2007 and reflects the industry standard.
- Clarify the type of work that must be performed by a licensed professional from that performed by service technicians and clarify when an installation inspection is required.
- Add a requirement for installation inspections using a Department-authorized checklist with submittal for review.
- Increase the license fee for companies and individuals to \$200 biennially. Currently the fee is \$50 per year.
- Expand the reciprocity criteria to recognize training and examinations from other states or equipment manufacturers on the basis of Department approval.
- Include a requirement for UST professionals to report suspected and confirmed releases. Currently only the UST owner/operator must report.
- Clarify conflict-of-interest activities.
- Provide that a cathodic protection tester must be trained and maintain certification with the National Association of Corrosion Engineers (NACE), the Steel Tank Institute (STI) or equivalent certification approved by the Department.

The Department held two stakeholder meetings in Des Moines before proposing to amend Chapter 134 under Notice of Intended Action. Written and oral comments were received. The stakeholders' main concern was the duty to report UST releases; a secondary concern focused on the respective

responsibilities of licensed removers and certified groundwater professionals during the UST system closure process.

Stakeholders expressed concern that requiring UST professionals to report suspected or confirmed releases to the Department would jeopardize the professional relationship, especially with regard to payment, between UST professionals and their client, the regulated public. Once a suspected release is reported, Department rules require an investigation to determine whether a release has in fact occurred and, specifically, the location and manner of release. Stakeholders preferred that owners and operators personally make all reports to the Department, which is how the rule currently reads, primarily because stakeholders are concerned that they may be viewed as responsible for costs associated with a release. However, the Department believes such reports should be made directly by the professionals trained in the field. Direct reporting by installers ensures that an accurate and timely report is made for the benefit of public health and the environment. Furthermore, a majority of states surveyed have a similar rule in place.

Discussions with stakeholders also focused on the role of removers at UST closures compared with the role of certified groundwater professionals (CGWPs). Removers will perform the technical aspects of closure, i.e., required digging, grading, demolition work and the physical removal of the tanks. CGWPs will oversee, for example, soil and groundwater sample collection and will submit samples to laboratories. Even though one individual can hold both licenses and perform all necessary work, the Department sees a benefit in having these duties divided between two occupations.

Other amendments to Chapter 134 were noncontroversial. Stakeholders recognized the legitimacy of raising the license fee to reflect inflation since the original \$50 per year fee was imposed in 1991. The proposed license fee is the same as the fee for becoming a certified groundwater professional. The same economic principle applies to the proposal to increase liability insurance coverage. Revisions to the continuing legal education and testing requirements have also been generally supported, especially in light of the Department's willingness to reciprocate with neighboring states as long as the programs are similar enough to justify an Iowa license.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 9, 2009. Such written materials should be directed to Tom Collins, Underground Storage Tank Section, Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or E-mail tom.collins@dnr.iowa.gov.

Three public hearings will be held at the following times and locations, at which time persons may present their views either orally or in writing.

April 2, 2009	1 p.m.	Wallace State Office Building Fifth Floor West Conference Room 502 E. 9th Street Des Moines
April 6, 2009	1 p.m.	Coralville Public Library Meeting Room B 1401 5th Street Coralville
April 7, 2009	1 p.m.	Denison Public Meeting Room 111 N. Main Street Denison

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code section 455B.474.

The following amendments are proposed.

ITEM 1. Amend **567—Chapter 134**, title of Part C, as follows:

UNDERGROUND STORAGE TANK INSTALLER AND
INSPECTOR LICENSING LICENSING OF UST PROFESSIONALS

ITEM 2. Amend rule **567—134.17(455B)**, definitions of “Inspector,” “Installer,” “Liner,” “Maintenance,” “Repair” and “Tester,” as follows:

~~“Inspector”~~ Installation inspector” means a licensed individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

~~“Installer”~~ means a licensed individual or licensed company engaged in the installation of a new underground storage tank system or the upgrading ~~or lining of existing~~ of underground storage tank systems.

~~“Liner”~~ means a licensed company or an individual who ~~lines a tank using an acceptable procedure under subrule 134.24(2)~~ provides services to install underground storage tank lining and to repair underground storage tanks.

~~“Maintenance”~~ means ~~minor service work to existing equipment, associated with underground storage tank systems, which is installed above grade level and can be observed from grade level. Maintenance does not require licensing~~ the normal operational upkeep to prevent a UST system from releasing a regulated substance or to ensure that a release is detected.

~~“Repair”~~ means ~~modification or correction of any existing portion of an underground storage tank system through such means as replacement of valves, fill pipes, vents, liquid level monitoring systems, and installation of spill and overflow devices, provided the activity occurs above grade, and the maintenance and inspection of the efficacy of cathodic protection devices. Repair does not include activities which are maintenance as defined in this chapter.~~ to restore any portion of a UST system that has failed. “Repair” does not include the activities defined in this rule by “modification” or “replacement.”

~~“Tester”~~ means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems, ~~using an acceptable procedure under subrule 134.23(2) as required by 567—Chapter 135 and this chapter.~~ For the purposes of this definition, an owner, operator or ~~one of their employees~~ an employee of an owner or operator performing vapor monitoring, cathodic protection tests, statistical inventory reconciliation or using an automated in-tank gauging device installed at a site location they own or operate shall not be defined as a tester. An owner or operator or one of their employees may also perform volumetric, nonvolumetric or vacuum tests on their own tanks and hydrostatic pressure tests on their own lines, ~~provided they have received certification from the manufacturer or supplier of the system for its usage and the system has been approved by the U.S. EPA~~ leak detection or cathodic protection monitoring, as required by 567—Chapter 135, is not a tester.

ITEM 3. Adopt the following **new** definitions in rule **567—134.17(455B)**:

~~“Cathodic protection tester”~~ means a licensed individual who provides installation, maintenance and testing services on underground storage tank corrosion protection systems.

~~“Install” or “installation”~~ means the physical construction of a UST system including, but not limited to, activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overflow devices and any associated administrative activities such as notifications, record keeping and record submissions.

~~“Modification”~~ means to change a UST system currently in use by the installation of new UST system components. “Modification” includes, but is not limited to, the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method to one of the methods listed in OAR 340-150-0450 through 340-150-0470, or adding secondary containment. “Modification” does not include those activities defined in this rule as “repair” or “replacement.”

~~“Remover”~~ means a licensed individual who is engaged in permanent closure activities by removal or filling in place of underground storage tank systems in accordance with 567—135.15(455B).

~~“Replacement”~~ means to effect a change in any part of a UST system above grade by exchanging one unit for a like or similar unit. “Replacement” does not include activities defined in this rule as “repair” or “modification.”

“*Service technician*” means a nonlicensed individual who works for a licensed individual or a licensed company or who is certified by a manufacturer to conduct modification or replacement activities at UST facilities.

“*Underground storage tank professional*” means an individual licensed under Part C of this chapter.

ITEM 4. Rescind rules 567—134.18(455B) to 567—134.28(455B) and adopt the following **new** rules:

567—134.18(455B) Applicability of Part C. All persons and companies that are currently licensed under the former board rules in rescinded 591—Chapter 15 shall be subject to Part C of this chapter. All persons conducting underground storage tank installations and installation inspections as provided in 567—subparagraph 135.3(1) “e”(2) and installers, installation inspectors, liners, testers, and removers shall be licensed by the department in accordance with Part C of this chapter. Service technicians as defined in rule 134.17(455B) are exempt from licensure under Part C of this chapter.

567—134.19(455B) General licensing requirements. Applications for licenses shall be submitted on a form provided by the department along with all required supporting documentation. Existing licenses as of [insert the effective date of these amendments] and new licenses shall expire December 31, 2010. Subsequently, licenses shall be issued and renewed on a two-year calendar basis, beginning January 1, 2011. All applicants must be at least 18 years of age. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.19(1) Licensing classifications. A separate license will be issued for:

- a. UST installers and installation inspectors;
- b. UST removers;
- c. UST testers;
- d. Cathodic protection testers; and
- e. UST liners.

134.19(2) Individual and company licenses. A company employing licensed individuals for installation, upgrading, removal, lining or testing of underground storage tank systems shall be registered as a licensed company. A company shall have its license revoked if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Individuals who are not companies as defined in rule 134.17(455B) are required to have an individual license only.

134.19(3) License fees. A \$200 fee shall be submitted with a company license application and with an individual license application. Companies and individuals are licensed separately as set forth in subrule 134.19(2). Individuals may apply for multiple individual licenses at once, paying only one \$200 processing fee. All fees are nonrefundable.

134.19(4) License issuance. Upon receipt, review, and acceptance of the application and application fee, the department shall furnish the applicant with a license showing the name of the individual/company and the expiration date. In order to remain valid, the license shall be renewed prior to the expiration date specified on the license.

134.19(5) Environmental liability insurance. All license holders, including licensed companies, are required to have environmental liability insurance with minimum liability of \$1 million per occurrence, as well as in the aggregate. Current license holders shall have 45 days from [insert the effective date of these amendments] to upgrade their environmental liability insurance.

a. *Licensed company.* A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed UST professionals.

b. *Licensed individuals.* Each licensed installer, installation inspector, remover, liner, cathodic protection tester, and tester is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the licensed individual or by the individual licensee.

c. Insurance exception. UST professionals employed by owners or operators of underground storage tank systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

d. Forms of acceptable insurance. All parties covered by the licensing provisions of Part C of this chapter shall provide evidence of environmental liability insurance to the department upon request.

(1) Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

(2) Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

134.19(6) Examinations and course of instruction. Prior to the issuance of a license as an installer, installation inspector, remover, liner, tester, or cathodic protection tester, the applicant shall successfully complete a department or department-approved course of instruction and pass a qualification examination approved by the department.

a. Examination requirements for all license holders.

(1) A passing grade of not less than 85 percent is required on the Iowa examination.

(2) Candidates who have failed the examination may not perform work unless supervised by an appropriately licensed individual.

(3) A fee reflecting the actual costs of developing and administering each course of instruction and examination shall be charged.

(4) Nothing in Part C of this chapter shall limit the right of the department to require additional educational requirements of license holders.

b. Exceptions to completion of the course of instruction or examination. All license holders, except cathodic protection testers, are required to complete the course of instruction. Cathodic protection testers are only required to maintain NACE certification, STI cathodic protection certification or equivalent certification approved by the department. Testers may qualify for reciprocity under paragraph 134.19(6)“c” if the department approves the public or private certification or training program completed. For testers, the department will approve or deny the certification based upon a review of the course of instruction, applicable manuals and handouts, and the examination.

c. Reciprocity. Persons who are certified under another state or federal regulatory program which has been approved by the department may be eligible for licensure in Iowa without having to take a course of instruction or pass the examination. However, these individuals shall still pay the \$200 application fee and qualify for license renewal by fulfilling continuing education requirements.

d. Repeat examination attempts. An applicant who fails an initial examination may take a second examination within one calendar year without having to retake the course of instruction. Failure of the second examination will result in termination of the application. A person may reapply for licensure. The applicant shall complete a course of instruction before retaking the examination.

134.19(7) Continuing education. Each person licensed under Part C of this chapter shall complete a department-approved refresher course every two years, except for licensed cathodic protection testers. Cathodic protection testers shall maintain NACE or STI certification or another certification approved by the department. Beginning with the first application for license renewal, each UST professional shall provide evidence to the department, prior to submission of the application for renewal, that at least 12 credit hours of department-approved continuing education have been satisfactorily completed since the last license was issued or renewed. The department may limit the number of credits granted for similar courses during a renewal period. The requirement for continuing education may be met only by those continuing education offerings which have been approved by the department.

a. Form of approval. Approval may take the form of:

(1) Program approval granted by the department to the sponsor or instructor of a continuing education offering;

(2) Individual requests for credit granted by the department to an installer or inspector for a continuing education offering whose sponsor or instructor did not seek program approval; or

(3) Blanket approval granted by the department to continuing education offerings sponsored by the department or other professional organizations whose standards have been approved by the department.

b. Procedures for department approval of continuing education offerings.

(1) Application for program approval shall be made by the sponsor or instructor to the department and include an agenda or an outline of the content of the proposed continuing education offering.

(2) Application shall be made at least 45 days prior to the desired effective date of approval.

(3) The application shall be reviewed by the department, and notice of approval or denial of program approval shall be sent to the sponsor or instructor. Credit hours may be limited by the department based on program content.

c. Proof of participation. A certificate of satisfactory completion of a department-approved continuing education offering issued by the sponsor or instructor constitutes sufficient evidence of satisfactory completion for purposes of meeting the continuing education requirement.

567—134.20(455B) License renewal procedures.

134.20(1) Renewal applications shall be made on a form provided by the department and received by the department or postmarked no later than November 1 of the expiration year of the license at issue. The renewal application shall be accompanied by the \$200 renewal fee as specified in subrule 134.19(3) and proof of environmental liability insurance as required under subrule 134.19(5). Applications received after the November 1 deadline, but before the January 1 expiration date, will be accepted and will require an additional \$50 late fee.

134.20(2) To be eligible for renewal, the licensee shall fulfill all continuing education requirements, along with any other requirements set forth in each license classification rule under Part C of this chapter. The department will consider all past disciplinary actions against the licensee when evaluating renewal eligibility.

567—134.21(455B) Conflict of interest. A licensed individual or a licensed company may not conduct a UST installation inspection at any facility at which the licensee is engaged in professional services which are regulated under Part C of this chapter, e.g., installations, modifications, repairs, or replacements of UST systems. A person working for a licensed company as an installer, liner, remover, or tester shall not provide services as an installation inspector on sites where UST systems are being installed or lined by the person's prior employer until six months after leaving the prior employer's licensed company. If a licensed individual leaves the employment of a licensed company, the licensed company shall notify the department within 30 days of that occurrence.

567—134.22(455B) Duty to report. Any UST professional licensed under Part C of this chapter has a duty to report suspected and confirmed releases to the owner/operator of the UST site and to the department.

567—134.23(455B) OSHA safety requirements. All licensed individuals and companies regulated under Part C of this chapter shall conduct their work as required by OSHA safety requirements defined under 29 CFR § 1910 (2006). OSHA standards apply whenever flammable, combustible, or hazardous materials are present, especially during the following activities:

1. Excavating, placing underground storage tank systems in excavations, and ballasting underground storage tank systems with flammable, combustible, or hazardous materials.

2. Purging, cleaning, and removal of underground storage tank systems which have contained flammable, combustible, or hazardous materials.

3. Testing as a part of an installation or after the system has been placed in service.

567—134.24(455B) Installers.

134.24(1) Licensure qualifications. An installer of an underground storage tank system shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures the installer intends to use. In addition to the licensing requirements listed under rule 134.19(455B), an installer must:

a. Provide documentation of at least two years of relevant experience;

b. Provide documentation of manufacturer certification for past installations and proof of current certification for future work including, but not limited to, tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and

c. Have completed at least 40 hours of OSHA training.

134.24(2) *Renewal qualifications.* To be eligible for license renewal, an installer shall:

a. Fulfill the department's continuing education requirements in rule 134.19(455B);

b. Maintain manufacturer certification if available and notify the department within 30 days if the certification is lost; and

c. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.24(3) *Responsibilities of installers.* A licensed installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. The licensed installer is responsible for all UST-related work at the site and must ensure that the performance of the work and the finished work conform to industry standards and codes and manufacturers' requirements. The licensed installer is responsible for ensuring that all local installation permits and notice requirements are satisfied. Tank installation includes all work associated with the placement of the tanks, pipes, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. Tank installation specifically includes excavation, equipment placement, backfilling, piping, electrical work, testing calibration, and start-up. Tank installation also includes installation of the appropriate equipment to meet National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements (40 CFR § 63.6580, Subpart ZZZZ), including submerged fill and vapor balance systems (Stage 1 vapor recovery) and the testing of those systems. Installers shall have on their person at all times while on a UST job site a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards.

134.24(4) *Documentation of work performed.* Installing a new UST system or upgrading a UST system requires an installer to submit a copy of DNR Form 148, signed by the owner, to the department. Each licensed installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—paragraph 135.3(3)“e.”

567—134.25(455B) Testers. A tester of underground storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing the tester will use. In addition to the licensing requirements listed under rule 134.19(455B), a tester shall provide documentation of at least two years of relevant experience, documentation of manufacturer certification for past testing, and proof of current certification for future work.

134.25(1) *Renewal qualifications.* To be eligible for license renewal, a tester shall fulfill the department's continuing education requirements in rule 134.19(455B) and shall maintain manufacturer certification or notify the department within 30 days if the certification is lost.

134.25(2) *Documentation of work performed.* A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with a new installation or the upgrading of an existing underground storage tank system. A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric, or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring (such as statistical inventory reconciliation, vapor or water monitoring wells, or tracer-type tests) shall not be acceptable as a precision test at the completion of the installation of a new system or the upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

a. The test results shall identify the tanks tested, the test method employed, and the results of the test. Test results shall be dated and signed by the licensed tester who performed the tests.

b. The original DNR Form 148 without attachments shall be mailed to the department.

134.25(3) Exception to inspection requirement. Installation inspectors are not required for the testing of underground storage tank systems, lines, leak detection, and cathodic protection as required by 567—Chapter 135 after the system has been put into service.

567—134.26(455B) Liners. In addition to the licensing requirements listed under rule 134.19(455B), a liner shall provide documentation of at least two years of relevant experience, provide documentation of manufacturer certification for past linings and proof of current certification for future work, and have completed at least 40 hours of OSHA training.

134.26(1) Renewal qualifications. To be eligible for license renewal, a liner shall:

- a. Fulfill the department’s continuing education requirements in rule 134.19(455B);
- b. Maintain manufacturer certification and immediately notify the department if the certification is lost; and
- c. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.26(2) Lining system investigation and installation requirements.

a. *Inspection of internal lining.* A steel underground storage tank that satisfies the corrosion protection requirement as set forth in 567—subparagraph 135.3(2)“b”(1) by the addition of an internal lining shall be internally inspected within ten years of the date the tank was lined and every five years thereafter. The purpose of the inspection is to determine if the lining continues to perform according to the manufacturer’s specifications, state and federal rules, and national standards and codes and to determine if the tank is still structurally sound. The department accepts both manned entry and video camera periodic inspections. The lining method employed must be specifically designed for the purpose, be compatible with the product stored, and meet acceptable federal and state standards as set forth in 567—Chapter 135.

b. *Integrity testing for tanks.* Liners shall verify structural integrity, to include thickness and strength of the underground storage tanks, whenever tanks are physically entered (manned entry) for periodic inspections. The following standards must be used for lining and periodic inspections and integrity testing:

(1) Physical (manned entry) inspection. American Petroleum Institute (API) Standard 1631: Interior Lining and Periodic Inspection of Underground Storage Tanks.

(2) Video camera inspection. API Standard 1631; “Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera” developed by Ken Wilcox Associates Inc. (KWA), Methods A and C; and ASTM G-158 (approved prediction models).

(3) Repairs to lining. Standard 631 of the National Leak Prevention Association (NLPA): Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks. Repaired lining must meet the requirements of API 1631 § 8.

(4) Documentation of the inspection. API 1631—Form C: Tank Re-Inspection Affidavit. Liners shall document any defects noted in the system including, but not limited to, holes and perforations using API 1631—Form C: Tank Re-Inspection Affidavit and shall include photographs of all methods of repair.

134.26(3) Responsibilities of liners. While on UST job sites, liners shall have on their person at all times a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards.

134.26(4) Documentation of work performed. A liner shall submit the API 1631 report form to the department, certifying that all work was performed in accordance with applicable industry standards.

567—134.27(455B) Installation inspectors. In addition to the licensing requirements listed under rule 134.19(455B), an installation inspector shall provide documentation of at least one year of experience with underground storage installations, testing, inspecting, or design; documentation of manufacturer certification for past work; and proof of current certification for future work. An engineer who intends to apply for licensure as an installation inspector and who has met the requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement so long as UST

installation is in the scope of the engineer's P.E. license and regular practice as provided for in rule 134.19(455B). Engineers, however, are not exempt from fulfilling the examination requirement.

134.27(1) *Renewal qualifications.* To be eligible for license renewal, an installation inspector shall fulfill the department's continuing education requirements in rule 134.19(455B) and shall maintain manufacturer certification or notify the department within 30 days if the certification is lost.

134.27(2) *Documentation of work performed.*

a. A copy of the inspection report must be submitted within 14 days after the inspection is complete. Both the inspection form and DNR Form 148 must be received by the department before the UST system can be activated.

b. A licensed installation inspector shall inspect the job site a minimum of three times during the course of the new tank installation or system upgrade.

c. For new installations, the first inspection shall occur before the UST system is installed. The second inspection shall occur before the covering of the system, when all tanks and pipes are exposed. The inspector shall witness testing of the primary and secondary piping and testing of the secondary containment, including sumps, under-dispenser containment (UDC), and secondary containment leak detection equipment. The final inspection shall occur when all components are operational and the system has been covered, but before actual operation. The installation inspector shall be present on site, shall visually observe all inspections, and shall be able to attest to the results. A video or other recording device showing the work completed by the installer shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

134.27(3) *Inspection required.* When concrete is cut or excavation is required that could affect the integrity or operation of the UST system or when a component that routinely contains product is installed, replaced or repaired, one inspection is required. This inspection shall occur when the component is uncovered and replaced or repaired but before operation recommences. Whenever secondary containment, such as UDC or sump, is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

134.27(4) *Inspection not required.* Replacing, repairing or installing the following does not require an inspection: drop tubes, overfill devices, spill buckets, installation of ATG systems, dispensers, submersible turbine pumps, automatic line leak detectors, internal lining and periodic inspections or lining repair, cathodic protection systems, interstitial sensors, flex connectors, and line and tank tightness testing.

134.27(5) *Pre-work notification requirement.*

a. A licensed company/individual hired by an owner/operator to perform work shall notify the owner's/operator's licensed installation inspector of choice prior to commencing work. Additionally, the owner/operator is responsible for supplying the name of the installation inspector if it is not a governmental entity to any state or local agency with rules affecting installations or upgrades.

b. The pre-work notice given to the installation inspector shall include, at a minimum, the following information:

- (1) Description of the work planned.
- (2) The licensed individual responsible for the work to be performed.
- (3) A schedule of the work to be performed.
- (4) A copy of the UST notification of intent to install form submitted to the department.

c. The installation inspector shall review the work plan, and any required changes by the installation inspector must be submitted to the company/individual prior to the beginning of the described work. An inspection schedule must be agreed upon before work commences. Changes to the work schedule, to include the inspection schedule, because of weather or unforeseen job-site conditions shall be agreed upon as soon as the extenuating circumstances are recognized.

134.27(6) *Pre-installation and installation checklists.*

a. The licensed company/individual performing the work shall submit to both the installation inspector and the department a notification of intent to install form 30 days prior to an installation or upgrade.

b. Installation inspectors are required to use the department's installation inspection checklist. The installation inspection checklist must be submitted within 14 days following the tank installation inspection.

134.27(7) Conflict of interest. In addition to the conflict-of-interest provisions outlined in rule 134.21(455B), the following apply to installation inspectors:

a. If the installation inspector establishes a contract to perform inspection services for an owner/operator, or performs more than five inspections per calendar year for any one owner/operator, then the installation inspector is required to disclose that relationship in writing to the department within 30 days of the fifth inspection.

b. The department may require the owner/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.27(8) Miscellaneous requirements. An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in Part C of this chapter are not followed by the installer. Furthermore, once an installation inspector has been placed on a job, that installation inspector cannot be replaced without the department's approval. Installation inspectors must verify that any local permit and notice requirements are in place.

567—134.28(455B) Removers. In addition to the licensing requirements listed under rule 134.19(455B), a remover shall provide documentation of at least two years of removal or other relevant experience and complete at least 40 hours of OSHA training. An engineer who intends to apply for licensure as a remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the licensure requirements under rule 134.19(455B) so long as UST-related work is within the scope of the engineer's P.E. license and regular practice. Engineers are not exempt from fulfilling the examination requirement in subrule 134.19(6).

134.28(1) Renewal qualifications. To be eligible for license renewal, a remover shall:

- a. Fulfill the department's continuing education requirements in rule 134.19(455B);
- b. Comply with all local permitting and notice requirements;
- c. Comply with department-issued UST closure guidance; and
- d. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.28(2) Responsibilities and documentation of work performed. A licensed remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with the safety requirements of OSHA. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days of removal or fill in place as required in 567—paragraph 135.15(3) "e." Removers shall ensure that all local permits and notice requirements are satisfied. Removers shall have on their person at all times while on a UST job site a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards. A remover may collect soil and groundwater samples as required by 567—subrule 135.15(3) only if the remover is a certified groundwater professional under 567—Chapter 134, Part A.

567—134.29(455B) Disciplinary actions.

134.29(1) General policy. It is the policy of the department to enforce standards of professional and ethical conduct which are generally accepted within the professions which qualify a person for licensure in Iowa under Part C of this chapter. The department intends to investigate and enforce standards of conduct by a licensee which fall within the scope of the licensee's professional relationship with the department, the licensee's clients, and other state regulatory agencies. The department may impose disciplinary actions which may include, but are not limited to, notice of deficiency; probationary notices; and suspension, revocation, and denial of a license. The criteria identified in subrules 134.20(1) and

134.20(2) will be utilized by the department in deciding whether to issue an initial license or to renew a previously issued license.

134.29(2) *Notice of deficiency or probation.* A notice of deficiency or probationary notice shall not be an appealable decision. The recipient of a notice may contest the basis for the notice in writing, and such response shall be made part of the licensee's record. A person subject to a notice to suspend or revoke a license may appeal the notice as provided in 567—Chapter 7.

134.29(3) *Suspension.*

a. The department may suspend the license of any individual or company for good cause for either a single act or omission or repeated acts or omissions. The suspension of a company or individual licensee shall prevent the company or individual licensee from engaging in activities for which the license is required. The suspension may require the licensee to take remedial measures intended to correct or prevent future acts or omissions. Good cause includes, but is not limited to:

- (1) A violation of these rules.
- (2) Negligent misrepresentation of material facts in a report submitted to the department.
- (3) Incompetence on the part of the licensee as evidenced by errors in the performance of duties and activities for which the license was issued.
- (4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

b. The department may require that the licensee complete a special training program, examination, or other remedial measures sponsored or approved by the department and designed to strengthen the specific weakness in the licensee's performance of duties as identified in the suspension order.

c. A licensed company or individual shall immediately surrender the applicable license to the department as of the effective date of a suspension order. The department may reinstate the license if it is determined that the company or individual has satisfied the terms of the suspension order and the license is not expired.

134.29(4) *Revocation.*

a. The department may revoke the license of a company or individual for one or more of the following:

- (1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.
- (2) Fraudulent omissions or misstatements of material facts in a report or in other written or oral communications with the department.
- (3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards.
- (4) Acts or omissions warranting suspension after a license was previously suspended.

b. A licensee shall immediately surrender the license after the effective date of the revocation decision.